

**PROPOSED AMENDMENTS TO THE FEDERAL RULES OF BANKRUPTCY
PROCEDURE TO BE EFFECTIVE DECEMBER 1, 2001**

Prepared by

**Chief Judge David S. Kennedy
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I. Introduction

On April 23, 2001, the United States Supreme Court, pursuant to 28 U.S.C. § 2075, transmitted to the Congress proposed amendments to Bankruptcy Rules 1007, 2002, 3016, 3017, 3020, 9006, 9020, and 9022. If there is no congressional action, the foregoing amendments to the Federal Rules of Bankruptcy Procedure will take effect on December 1, 2001, and will govern in all bankruptcy cases and proceedings filed thereafter and, insofar as just and practicable, all proceedings then pending.

2. Synopsis of Proposed Amendments

The Judicial Conference Standing Committee on Rules of Practice and Procedure has submitted the following synopsis of the amendments to the Federal Rules of Bankruptcy Procedure that have been adopted and transmitted to the Congress by the Supreme Court of the United States.

Rule 1007 is amended so that, if the debtor knows that a creditor is an infant or incompetent person, the debtor will be required to include in the list of creditors and schedules the name, address, and legal relationship of any representative upon whom process would be served in an adversary proceeding against the infant or incompetent person. This information will enable the clerk to mail notices required under Rule 2002 to the appropriate representative.

Rule 2002(c) is amended to assure that parties entitled to notice of a hearing on confirmation of a plan are given adequate notice of any injunction included in the plan that would enjoin conduct not otherwise enjoined by operation of the Bankruptcy Code.

Rule 2002(g) is amended to clarify that where a creditor or indenture trustee files both a proof of claim which includes a mailing address and a separate request designating a different mailing address, the last paper filed determines the proper address, and that a request designating a mailing address is effective only with respect to a particular case. The amendments also clarify that a filed proof of claim is considered a request designating

a mailing address if a notice of no dividend has been given under Rule 2002(e), but has been superseded by a subsequent notice of possible dividend under Rule 3002(c)(5). A new paragraph has been added to assure that notices to an infant or incompetent person are mailed to the person's legal representative identified in the debtor's schedules or list of creditors.

Rule 3016 is amended to assure that entities whose conduct would be enjoined under a plan, rather than by operation of the Bankruptcy Code, are given adequate notice of the proposed injunction. The amendment would require that the plan and disclosure statement describe in specific and conspicuous language all acts to be enjoined and to identify the entities that would be subject to the injunction.

Rule 3017 is amended to assure that entities whose conduct would be enjoined under a plan, but who would not ordinarily receive copies of the plan and disclosure statement or information regarding the confirmation hearing because they are neither creditors nor equity security holders, are provided with adequate notice of the proposed injunction, the confirmation hearing, and the deadline for objecting to confirmation of the plan.

Rule 3020 is amended so that if a plan contains an injunction against conduct not otherwise enjoined under the Code, the order confirming the plan must describe in detail all acts enjoined and identify the entities subject to the injunction. The amendment also requires that notice of entry of the order of confirmation be mailed to all known entities subject to the injunction.

Rule 9006(f) is amended to expand the 3-day rule so that it will apply to any method of service, including service by electronic means, authorized under proposed amendments to Civil Rule 5(b), other than service by personal delivery.

Rule 9020 is amended to delete provisions that delay for 10 days the effectiveness of an order of civil contempt issued by a bankruptcy judge and that render the order subject to *de novo* review by the district court. Other procedural provisions in the rule are replaced with a statement that a motion for an order of contempt made by the United States trustee or a party in interest is governed by Rule 9014 (contested matters).

Rule 9022(a) is amended to authorize the clerk to serve notice of entry of a judgment or order of a bankruptcy judge by any method of service, including service by electronic means, permitted under the proposed amendments to Civil Rule 5(b).